

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RUBY MYERS DAVIS,

Petitioner,

v.

**NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,**

Respondent.

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Civil Action No. **3:08-CV-2145-L**

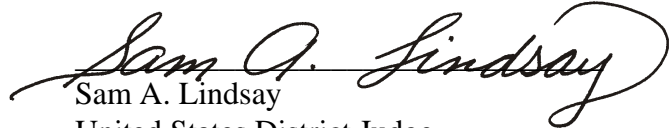
ORDER

Before the court are the Findings and Recommendations of the United States Magistrate Judge, filed March 24, 2009. Petitioner did not file objections to the findings and recommendation.

This is a habeas petition filed pursuant to 28 U.S.C. § 2254. Magistrate Judge Jeff Kaplan found that the petition should be denied because Petitioner failed to show that her claims “resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established law” or “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” The magistrate judge also found that Petitioner’s unexhausted claim was not a proper basis for federal habeas relief because a state court would likely find it barred under section 4 of article 11.07 of the Texas Code of Criminal Procedure.

Having reviewed the pleadings, file, and record in this case, and the findings of the magistrate judge, the court determines that the findings are correct. The magistrate judge’s findings and conclusions are therefore **accepted** as those of the court. The court therefore **denies** the writ of habeas corpus **with prejudice**. Because the court denies Petitioner’s writ, it **denies as moot** Plaintiff’s Motion to Withdraw Guilty Plea (State), filed December 4, 2008.

It is so ordered this 17th day of April, 2009.


Sam A. Lindsay
United States District Judge